



North Australian Aboriginal Justice Agency

1. Please provide the following information about your country:

Country	Population	GDP	Poverty Line & Percentage of Population in Poverty	Total No. of Practicing Lawyers in the Country
Australia	24.13 million	Gross Domestic Product (GDP) in Australia was worth 1323.42 billion US dollars in 2017	In October 2016, ACOSS released a new report revealing that poverty is growing in Australia, with an estimated 2.9 million people or 13.3% of all people living below the internationally accepted poverty line.	618
Name of Legal Aid Organization(s)	Date of Establishment	Total No. of Applications Received in the Past Year	Total No. of Applications Approved in the Past Year	Total No. of Applications Rejected in the Past Year
North Australian Aboriginal Justice Agency	NAALAS was formed in 1981 then merged with KRALAS and MIWATJ in 2007	10671	10671	0
Total No. of Legal Aid Lawyers (including staff and private lawyers)	Total No. of Non-Legal Professionals (e.g. social workers, counselors, community/culture workers)	Government Budget for the Legal Aid Organisation in the Past Year	Total Legal Aid Expenses in the Past Year	Proportion of Legal Aid Budget Funded by the Government



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Total staff: 149 Total lawyers: 56 Number of Indigenous staff: 43%	44	\$19568000	\$16144000	100%
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2. Please describe the main provider(s) of legal aid services in your country:

The main providers of legal aid services in Australia are Aboriginal Legal Services and Non Aboriginal Legal Services.

NAAJA is an Aboriginal Legal Service in the Northern Territory and 100% funded by the Commonwealth Government.

3. Please describe the legal aid organization and the recent business figures:

NAAJA delivers high quality and culturally proficient Aboriginal legal services in the Northern Territory. In addition to our core legal practice, we provide law and justice services that aim to ensure that Aboriginal people can have real access to justice.

We provide services in the following areas:

Criminal Law

We are the largest Criminal Law practice in the Northern Territory. NAAJA's Criminal Law Section consists of dedicated and passionate lawyers and highly professional Aboriginal paralegal staff.

Our Criminal Law practice represents clients:

- On criminal charges in the Youth Justice Court, Local Court, and Supreme Court
- In all Courts sitting in urban and remote regions
- The Court of Criminal Appeal and in some circumstances the High Court of Australia

We also provide:

- Legal advice over the phone or face-to-face about criminal charges or police investigations
- 24 hour legal advice when people are arrested or taken into police custody



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NAAJA also provides specialised services for vulnerable persons including:

- Providing clients with skilled and qualified interpreters in their own language or signing system.
- Representing young people in court and providing ongoing intensive case management through our Indigenous Youth Justice Worker
- Representing defendants who are deaf or having hearing loss, mental health issues including those unfit to be tried by reason of mental impairment

We strive to:

- Provide a culturally relevant legal service to Aboriginal people of the Northern Territory
- Advocate for change to laws, programs and policies that affect Aboriginal people in the criminal justice system

Civil Law

Our Civil Law solicitors provide advice on all areas of civil law and representation in areas such as:

- Child Protection (including a duty service)
- Complaints about government services and departments (e.g. police, prison officers, health care, education)
- Compensation claims against police and other government departments (e.g. negligence, false imprisonment, assault)
- Urban and remote tenancy (with a focus on public housing)
- Social Security (e.g. Centrelink, CDP and Income Management)
- Statutory compensation (e.g. motor accident and victims of crime compensation)
- Consumer Affairs (e.g. credit, debt, motor vehicle sales and repairs)
- Adult guardianship
- Discrimination and human rights
- Coronial inquests
- Employment

We advocate for changes to laws, programs and policies that affect Aboriginal people in the civil justice system.



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Law & Justice Projects

The work of NAAJA's Law & Justice Projects Section is focused on:

- Strengthening the capacity of Aboriginal people to participate actively in the justice system
- Taking individual and collective responsibility for their lives and the issues they face
- Fully exercising their legal rights

NAAJA Throughcare

NAAJA Throughcare commenced in September 2009. We have two case workers based at the Darwin Correctional Centre and seven intensive case workers based in Palmerston.

We assist Aboriginal people throughout their custodial sentences, help them prepare for life outside prison, and provide them with support and assistance after they are released.

Our model is based on voluntary engagement, building relationships of trust with our clients, and high level cross-cultural expertise. We help clients develop insight into why they are getting into trouble and support them to take responsibility, address the factors that underpin their offending, and make positive changes in their lives.

Community Legal Education

NAAJA provides culturally appropriate legal education, training and capacity building to a range of groups and organisations across the Northern Territory. We support Aboriginal people to learn more about the justice system and to build links between Elders and community leaders, the courts, police and other service providers. This makes the justice system more relevant for Aboriginal people and enhances the relevance and effectiveness of the justice system for Aboriginal people.

Night Patrol Legal Education

We build the skills and capacity of Night Patrol Services and develop their role as leaders in preventing crime and promoting community safety, with a particular focus on initiatives to protect women and children. Our training includes foundations of the legal system and various areas of civil and criminal laws including the criminal justice system, child protection laws, duty of care, use of force and liquor laws.



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NAAJA handles all the cases in the bush court, magistrate's court and Supreme Court.

We have a very small brief out budget and only brief out or refer our clients to the non-Aboriginal Legal Aid Commission where there is a conflict.

NAAJA over the past 5 years has expanded our services to cover the cluster of issues our clients face which include:

- A specialist youth criminal team
- Social Worker in our civil practice for child protection matters
- Specialist youth ThroughCare team
- Community Legal Education
- Working with Aboriginal Law and Justice Groups
- Providing trauma informed programs to youth in youth detention

4. Please describe the legal aid funding arrangements of your country and your organization:

NAAJA is funded by the Commonwealth Government on an annual budget of approximately \$20 million.

We are funded for 5 years and need to work within the funding provided.

Over the years our funding increases and decreases depending on who is in government at the time.

We are facing a funding cut of approximately \$800,000 on 1 July 2020 however we have 2 years to lobby for the funding cut not to proceed.

Our strategy is to lobby the current government, opposition and independents to reverse these cuts and increase our funding to meet our client needs.

5. Please describe the legal aid service delivery models in your country (or organization):

NAAJA delivers legal services to Aboriginal people in the Northern Territory in criminal law, civil and family law.

We only brief out clients if we are conflicted.

To become a lawyer in the Northern Territory you need to do your Bachelor of Laws for 4 years then you need to do your work placement.

Once this is completed the person is admitted as a lawyer of the Supreme Court.



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To practice each lawyer is to have a practicing certificate and professional indemnity insurance.

For a client to receive legal assistance they need to meet the means test which is approximately \$46,000 per year.

The Managing Criminal and Civil Solicitor allocate the cases to the lawyers who are rostered to the bush court, magistrate court and Supreme Court.

The Managing Criminal and Civil Solicitor do file reviews on a regular basis.

Our salaries are still approximately 20% less than mainstream legal aid commissions.

- 6. Please describe the scope and types of legal aid services (e.g. legal education, information, advice, representation, advocacy and reform) provided in your country (or organization), and the types of matters aided.**

Please see above.

Below are some case studies

CIVIL PRACTICE

Child Protection

We assisted a Katherine mother whose 5 month old baby was removed by Territory Families (TF). We attempted to negotiate a resolution of the matter with TF, however a 2 week Temporary Protection Order (TPO) was made by the Court. During the 2 week order, TF adopted our original proposal and the baby was returned, and the mother will receive ongoing monitoring and support. The proposal was important as it also provided an opportunity for the mother to demonstrate her readiness to accept the return of 3 other children who had previously been removed by TF.

We assisted a Borroloola father whose baby was removed from the mother on a 2 week TPO. NAAJA has successfully negotiated for the baby to be returned to the father, who has the care of the babies 6 older siblings.

We assisted another Katherine client on remand to successfully object to a Temporary Protection Order following his arrest, and have the children returned to the mother's care. NAAJA, working with NTLAC, were successful in meeting the high threshold to dispute a TPO, which in normal circumstances can lead to longer term orders.



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Social Security

Successfully appealing a decision of a Department of Human Services Authorised Review Officer not to waive a large (\$8,000) Centrelink debt. Our client was an elderly Aboriginal man with limited English. He has been incarcerated numerous times and has liver damage as a result of alcohol dependency. Our client accrued a substantial debt because he received disability support payments while incarcerated. The payments were made because of a failure in the usual information sharing arrangement between Centrelink and the Northern Territory Department of Correctional Services. The Administrative Appeals Tribunal agreed with our submissions that our client's special circumstances justified the debt be waived. Our client has recently been released from prison and is better able to support himself because he is debt free.

Coronial Inquests

NAAJA represented the family of the deceased. NAAJA and the counsel assisting constructively worked together prior to the coronial to identify the important issues. Approximately 12 witnesses were called over two days where a number of Police officers made constructive admissions. The findings and recommendations that were achieved were that:

- a. The Police did not use their Northern Territory Incident Control System which could have potentially avoided a number of failings in the management of the pursuit
- b. Police vehicles will have GPS tracking so to better co-ordinate the Police in pursuits (which is a recommendation NAAJA previously sought in the Inquest for Dennis Wurramarbra in August 2015 – one month before the deceased death)
- c. Police need more resolution options in safety stopping a vehicle in a pursuit – whereby Police are purchasing more tyre deflating devices
- d. Such devices on the night might have been used to effectively apprehended the persons in the car
- e. Police now automatically review all major critical incidents to ensure continuous learning and improvement

Housing

We finalised a long running litigation of a trespass tort claim on behalf of a senior community elder against a regional council. We claimed the shire forcefully took possession of the house she had been living in for 8 years and destroyed her belongings. There was confusion about the tenure of the premises following the NT Intervention, however it was clear that the shire had no property rights to



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take the action it did. NAAJA had been raising the complaint since April 2013 and eventually filed in the Local Court in August 2015. After a protracted pre hearing process, the dispute finally settled on a without admission basis prior to a scheduled 5 day trial. The case involved many complex property law issues and NAAJA was assisted by counsel, senior counsel and Ashurst throughout the claim.

We successfully appealed a housing application rejection for a homeless Darwin father – but it took three years! After appealing through all tiers of the Department of Housing, we appealed directly to the CEO. When he was eventually allocated a house, we were not advised by the Department: We made a further complaint about their speaking directly to clients where we are acting. We received an apology and recognition that this is a wide spread problem in the Department.

Civil Liberties

An 11 year old Darwin youth was pepper sprayed by Police while handcuffed in the back of a Police wagon after allegedly spitting on a police officer. In investigating our complaint, the Ombudsman found that the Police used excessive force in pepper-spraying the client and made recommendations in relation to pepper-spraying and the treatment of children by Police generally.

We secured a settlement for a malicious prosecution matter for a Wadey client for \$22,500. These types of claims are notoriously hard to prove, since you have to find evidence of a subjective intent on the part of the police or DPP to prosecute for a “purpose other than a proper purpose”. In this case, the Police failed to properly identify the perpetrator of a crime on the day (such as photographs or fingerprints), and later claimed it was our client. The charges were only withdrawn on the day of the hearing more than a year later.

CRIMINAL PRACTICE

First Story

In the Darwin Local Court EC pleaded guilty to two aggravated assaults against her children. Her Lawyer called her to give evidence at her sentence hearing regarding her remorse. Her Lawyer liaised with Territory Families and they wrote a favourable report about EC’s efforts towards rehabilitation. Against the odds, the lawyer obtained *Griffiths* remand bail for her to go to Banyan House, an intensive drug residential rehabilitation program

The Prosecutor was opposed to the result and appealed the grant of bail. This had the effect of immediately staying the bail. As it was right before Christmas EC remained in custody until 2 January when the same lawyer appeared before the Supreme Court. After much argument the Supreme Court



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Justice upheld the decision of the lower court and bail was granted as per the original order. EC is now doing well at Banyan House. She will be sentenced later in the year. If all goes well she is unlikely to be returned to goal.

Second Story

BK was found guilty after a marathon hearing on the Tiw Islands where his lawyer called BK to give evidence. There was evidence about BK having been sexually assaulted as a young person. The Local Court Judge altered her opinion from thinking the defendant was irredeemably violent to having significant empathy for him.

Although there was an ultimate finding of guilt, the finding was far better than the original allegation and the assault went from a subsequent level 5 (12 months mandatory) to a subsequent level 3 (3 months mandatory). In addition Her Honor found the assault to be characterized as 'excessive self-defense'. BK's Lawyer made an argument that there were 'exceptional circumstances' on sentencing such that mandatory sentencing should not apply. Her Honor accepted that and BK was released on the day of sentence.

Hi Lawyer notes that BK looked pretty happy when she saw him after his release walking down Cav St with his mini boom box on his shoulder playing Tracy Chapman at full volume.

Youth Story 1

KW, 15yo

KW was charged with numerous serious Unlawful Entries, Stealing, unlawful use MV occurring over a year. He was sentenced on 24 July 2017 to 7 matters to 1 month and 7 days on detention. He was then dealt with for 6 other files for which he received 11 months detention, backdated to 10/06/17 suspended on the date of sentence, with supervision, operational for 1 year.

KW breached the conditions of his suspended sentence with drug use in early September. The breach was found proven and no further order. KW breached second time with noncompliance and drug use and was detained. KW instructed he wanted to do 5 months at don dale (from October) and 4M at Bushmob. He felt he wasn't ready to give supervision another go as he knew he would breach. In October Judge Oliver agreed to this course and he was resentenced him across the 6 files to 11M detention, backdated to 11/08 to be released on S/S to Bush Mob after serving 5M.

He then changed his mind and his lawyer put in a reconsideration, with an extensive affidavit outlining the reasons KW wanted to get him to BushMob. A further updated affidavit was alter required requesting supervision in Darwin to reside at the new Bail Supported Accommodation (Yirra House) as that was not available to him at the time of sentence in July or breaches.

Ultimately Judge Oliver agreed after lengthy submissions and after an institutional report with 21 incidents. She resentenced him across 4 files to time served, and he was released him on a Griffiths



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Remand, on bail, with supervision of Territory Families and Electronic Monitoring to reside at Yirra House.

7. Please describe application procedures and the criteria for granting legal aid.

Introduction

NAAJA will generally provide initial advice in most areas of law and duty lawyers' assistance at court to any Aboriginal person who seeks it.

NAAJA will provide ongoing casework assistance in the criminal, civil and family law areas only after making a grant of legal aid.

In order to get a grant of legal aid the client must apply using the appropriate application form.

The application is forwarded to the Managing Solicitor who will assess the application against the eligibility criteria set out in our funding agreement – including the means and merits tests - and either grant or refuse casework assistance.

Only the Managing Solicitor is authorised to make the decision whether or not casework assistance is granted and any conditions imposed on the grant of casework assistance.

The applicant will then be notified of the Managing Solicitor's decision in writing.

The threshold is \$46,000 pa.

8. Has your organization (or legal aid organizations in your country) developed services targeting specific underprivileged communities or other legal issues?

NAAJA provides legal assistance to some of the most vulnerable members of the Australian community.

Aboriginal people in the Northern Territory:

- have high rates of disabilities¹ and low access to disability support services;²
- are more likely to live in remote or very remote areas,³ which is connected to other factors of disadvantage – poorer access to services, overcrowded housing, fewer employment opportunities and very high costs of living;⁴

¹ Australian Institute for Health and Welfare. (2013a). *Australia's welfare 2013. Australia's welfare no. 11. Cat. no. AUS 174.*

Canberra: Australian Institute of Health and Welfare. Available:

<http://www.aihw.gov.au/publication-detail/?id=60129543825>, pp. 196, 206-207

² Productivity Commission (2011) *Disability care and support: draft report [vol 1 & 2]. Canberra: Productivity Commission* (section 9).



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- experience homelessness⁵ and overcrowding⁶ at a higher rate than the rest of Australia; one in four Aboriginal people in the NT are homeless;⁷
- have fewer employment opportunities⁸ and have significant barriers to employment, such as lack of literacy and budgeting skills, discrimination in the labour market, and deficits in skills/training matched to job demand in many remote communities;⁹
- are unable to access affordable housing, even when work is available;¹⁰
- are income managed at a much higher rate than non- Indigenous people;¹¹
- have low median incomes;¹²
- have lower life expectancy;¹³
- are more likely to not be in the labour force;¹⁴
- have a low rates of educational attainment;¹⁵

³<http://www.abs.gov.au/ausstats/abs@.nsf/Previousproducts/1301.0Feature%20Article22004?opendocument&tabname=Summary&prodno=1301.0&issue=2004&num=&view=>

⁴<http://www.abs.gov.au/ausstats/abs@.nsf/Previousproducts/1301.0Feature%20Article22004?opendocument&tabname=Summary&prodno=1301.0&issue=2004&num=&view=>

⁵ AIHW *Homelessness among Indigenous Australians Report 2014*, table 2.1

⁶ Ibid.

⁷ Ibid.

⁸ See APO NT *Submission to the Senate Standing Committee On Community Affairs Social Services and Other Legislation Amendment (2014 Budget Measures No.1) Bill 2014 Social Services and Other Legislation Amendment (2014 Budget Measures No.2) Bill 2014*, 2014, p 22.

⁹ Senate Standing Committee on Education, Employment and Workplace Relations, *Questions on Notice*, Additional Budget Estimates, 2011-12, DEEWR Question No. EW1045_12.

¹⁰ Anglicare Australia *Rental Affordability Snapshot* April 2014, p 37.

¹¹ 2014-2015 Budget Estimates, Community Affairs, Document 1, 05/06/2014, 11.15am, Secretary Mr Finn Pratt, at p 1.

¹² Office of the Northern Territory Coordinator-General, *Office of the Northern Territory Coordinator-General for Remote Services Report Jun 2011 to August 2012*, p 21

¹³ 2010-2012 data from COAG Reform Council *NT jurisdictional snapshot*, see Appendix 7.3

¹³ Australian Institute of Health and Welfare, *Life expectancy* [<http://www.aihw.gov.au/rural-health-life-expectancy/>] accessed on 6 August 2014

¹⁴ Havnen, Olga, *Office of the Northern Territory Coordinator-General for Remote Services Report, June 2011 to August 2012* (2012), p 176

¹⁵ COAG Reform Council 2012-13. *Indigenous Reform 2012-2013: Five years of performance*, (2013)



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- are more likely to have a financial penalty applied for participation failures; ¹⁶
- live in communities where there are significant structural barriers to development;¹⁷ and
- have a high degree of language diversity, which affects access to services. ¹⁸

Our target group is high needs and vulnerable Aboriginal prisoners: those least likely to succeed after release from prison without intensive assistance.

The Northern Territory (the NT) continues to incarcerate people at a rate far in excess of anywhere else in Australia. The NT's incarceration rate in 2016 was 880 per 100,000 people - over three times that of its closest rival Western Australia, and almost five times the national average. The number of prisoners is also increasing. In 2013, the NT prison population increased 2% to 1,436. More than 85% of people in the NT's prisons are Aboriginal. The NT also has the highest recidivism rate in Australia, with 57.5% of people released from prison being returned within two years. This figure has risen by 5% in the last year and can be compared with the national average of 40.3%.

To address the high incarceration, NAAJA delivers an Indigenous Prisoner Throughcare program which case manages prisoners 6 months prerelease and then 6 months post release for them to successfully reintegrate back to their community.

NAAJA has been delivering legal services to Aboriginal people for over 40 years. We deliver the services in the urban, regional and remote communities.

NAAJA will deliver community legal education to Aboriginal people in in the Northern Territory.

NAAJA's legal education project works with communities to provide accessible legal education, workshops, projects and community development that focus on developing legal knowledge, early intervention strategies and justice support to improve the safety and wellbeing of their community and

pp. 65-68

¹⁶ Senate Standing Committee on Education and Employment, Questions on Notice, *Additional Estimates 2012-13*, Department of Employment Question No. EM0186_14.

¹⁷ Central Land Council, *Land Reform in the Northern Territory: evidence not ideology*, October 2013, p 3.

¹⁸ <http://www.ais.nt.gov.au>



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achieve better justice outcomes for Aboriginal people. Our CLE incorporates NAAJA's Cultural Competency Framework and be trauma-informed allowing people to have conversations and ask questions in a culturally safe

The target group are Night Patrol workers, school attendance officers, women's safe house workers, teachers and students in remote schools, police officers, youth workers, aged care centre and health clinic workers, strong men and women's groups, law and justice groups and mediators, Remote Aboriginal Family and Community workers, and staff and clients of the Families as First Teachers program me.

There is ample evidence that many Indigenous people of the Northern Territory have an extremely limited understanding of the legal system and that this can lead to non-compliance with orders, lack of respect for the institutions of government and an inability to engage and consult with governments and services. This lack of understanding of and engagement with the justice system contributes to the disproportionate representation of Aboriginal people in the criminal and civil justice system.

NAAJA is known not just as a collaborative and constructive stakeholder, but as a leader in the NT legal system and legal assistance sector. It is frequently NAAJA that takes responsibility for coordinating stakeholder meetings and forums.

NAAJA's Collaboration activities include:

NT Legal Assistance Forum

The objectives of NTLAF are to discuss particular NT legal issues and identify possible solutions and actions. NTLAF provides greater co-operation and coordination of service delivery between service providers of legal services in the NT.

NTLAF was formed in October 2010 and its members are all legal services in the Northern Territory.

NTLAF members meet every 3 months and the members then meet with Northern Territory and Commonwealth Agencies through the NT Jurisdictional Forums which aims to improve coordination between Commonwealth, Territory and community sector agencies in the delivery of legal assistance services and or seeking to minimise service gaps in a jurisdiction where remoteness and social exclusion poses particular challenges for service providers.

Criminal Justice Forum



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NAAJA is a member of this group that meets approximately monthly to resolve issues in the criminal justice system, including corrections. The Forum brings together the Chief Magistrate, the Commissioner of Corrections, and the CEO of the Department of Justice, the head of Courts Administration, the Law Society and the Director of the NT Legal Aid Commission.

NT Government/Non-Government Organisation Partnership Group

The terms of reference are to support the relationship between the NGO Sector and NT Government and assist other work being undertaken by the NT Government/Non-Government Organisation Partnership Group (NNPG). Members are NT Departmental CEO's, Central Australian Aboriginal Congress, Aboriginal Peak Organisations (NT), NTCOSS, Tangentyere Council, and Anglicare.

Territory Families Forum

This forum brings together the executive of the Territory Families with legal assistance services in the NT to better co-ordinate services for children and families in the NT

Making Justice Work

'Making Justice Work' brings together a wide range of groups from the community, social services and legal sectors with a common interest in effective responses to crime in our community. Groups taking part in the campaign have agreed to work together to promote evidence-based approaches to 'law and order' and community safety.

NATSILS

As a member of NATSILS we work closely with the secretariat on submissions relating to Aboriginal justice issues

NT Police

NAAJA meets every 3 months with the police

Corrections

NAAJA has an MOU with Corrections and meets with them every 3 months

Aboriginal Interpreter Services

NAAJA works closely with AIS on developing their resources which included their legal dictionary and police cautions. We meet regularly with the AIS and provide mutual support through training – eg using interpreters, cross-cultural communication, introduction to the legal system, introduction to legal



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processes.

Law Society NT

NAAJA has had a number of staff on various Law Society Committee, as well as the Law Society Council.

NAAJA has expanded our legal services to the Southern Region of the Northern Territory from 1 January 2018.

Accessibility is a critical aspect to NAAJA's approach to legal service delivery. The overwhelming majority of our support staff are Aboriginal people (43%) and our Client Service Officers have a particular role to play in ensuring that clients can access our services and engage more meaningfully with the legal system. All staff are trained in cross-cultural awareness and communication.

As an example of NAAJA's effective and accessible service delivery, one of the most problematic issues repeatedly faced by the Youth Justice Team is young people being brought into Darwin from remote communities. Young people have to have a responsible adult to accompany when appearing in court; also the court looks for a plan for the young person to be released on bail that addresses stability and structure in their lives. All of this can be challenging enough when the young person comes from Darwin: often phones are not answered and the adults can be hard to locate. This is redoubled when the young person comes from a community hundreds of kilometers away. NAAJA's Youth Team have developed a network of community workers, relatives, Corrections Officers, police and well known and respected community members who will help in locating family member and getting them to telephones so that the young people have proper representation at court. The Youth Team can also, then, communicate with the young person's family thus providing crucial information that is presented to the court.

Remoteness also presents a challenge to our clients. Our criminal lawyers travel to remote communities prior to the circuit court sitting day and our civil lawyers have a regular schedule of visits to communities that is advertised within the community to ensure that Aboriginal people have reliable and regular face-to-face contact with lawyers.

NAAJA has a Strategic Plan under which NAAJA has adopted the following Strategic Goals to guide its activities in 2017-2020:

1. NAAJA to lead the delivery of high quality, culturally proficient and accessible legal and justice services
2. Continue to grow as a strong and leading Aboriginal organisation



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3. To lead justice reform
4. To co-ordinate meaningful Partnerships & Relationships
5. To assist and empower Aboriginal people and communities to engage with the legal system

Every 12 months each section of NAAJA develops an Action Plan on meeting the goals of the Strategic Plan. Part of this planning is a review of services, staffing structure and how we can better meet the needs of the clients.

9. Please introduce the quality assurance mechanisms in your organization/country (if any):

NAAJA does client satisfaction surveys as well as our funding body interviews our key stakeholders to assess our service delivery

Our Managing Criminal and Civil Solicitors do staff performance reviews every 6 months as well as file reviews

NAAJA provides a range of professional development.

Each employee has professional development plan and has an annual training budget of \$1000 each

All staff have to do compulsory cross cultural training as well as 1st aid, trauma informed training, 4WD training.

Each of the lawyers has a mentor.

NAAJA also established the Bilata Legal Pathway program to encourage more Aboriginal people in the Northern Territory to study law.

10. How does your organization (or legal aid organizations in your country) make legal aid resources known to the potential clients in need and improve their legal awareness so they may seek timely assistance? Do you use any different approaches to reach people in remote areas or groups with special legal needs?

NAAJA has been working in this space for over 40 years and is well known to the communities.

We also use other media including Facebook, twitter, Instagram

11. How does your organization help to reduce the number of disputes that resort to the courts?

Our Law and Justice practice works with other legal services in the Northern Territory and does joint law



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and justice submissions

NAAJA is also part of the national peak body for Aboriginal Legal Services NATSILS and each Policy Officer from each state works together on joint national submissions.

12. Please describe any modern technology initiatives or self-help services developed by your organization (or legal aid organizations in your country) (if any), and comment on their effectiveness.

NA

13. In the past decade, have there been any surveys done in your country on legal needs and legal assistance seeking behaviors of the general public or any specific underprivileged groups? Or have there been any research studies of your service data?

Legal needs of Indigenous people in Australia -

[http://www.lawfoundation.net.au/ljf/site/templates/UpdatingJustice/\\$file/UJ_25_Legal_needs_of_Indigenous_people_FINAL.pdf](http://www.lawfoundation.net.au/ljf/site/templates/UpdatingJustice/$file/UJ_25_Legal_needs_of_Indigenous_people_FINAL.pdf)

Inquiry to access to justice - <https://www.humanrights.gov.au/inquiry-access-justice-2009>

14. Please describe the challenges to delivering legal aid encountered in your country (or your organization) in recent years, and the strategies for responding to those difficulties.

Aboriginal people in the Northern Territory face a range of broad societal and systemic barriers that prevent them having access to justice. These include:

- Acute social disadvantage in the areas of education, housing, employment, income, health and disability. This disadvantage can give rise to greater legal need (for example in relation to welfare rights or housing and tenancy issues) as well as inevitably impacting upon people's ability to access justice, particularly without legal assistance.
- Language: in many parts of the country, Aboriginal people speak Aboriginal English (a distinct dialect) as their first language.¹⁹ In the NT, many Aboriginal people speak English only as a second or third language and require interpreters. In a number of communities that are serviced by NAAJA (including communities like Wadeye, the NT's largest Aboriginal community), almost all people seeking legal assistance require an interpreter. Unfortunately, there is a shortage of appropriately trained and qualified interpreters in

¹⁹ See Department of Justice and Attorney General, *Aboriginal English in the Courts* (2000), available at http://www.courts.qld.gov.au/__data/assets/pdf_file/0004/90715/m-aboriginal-english-handbook.pdf.



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Aboriginal languages, including in some of the major language groups.

- Cross-cultural issues: for many of our clients, the mainstream legal system is foreign and they are unable to engage unassisted with common governmental/bureaucratic processes. The language of the law and government/bureaucracy and its concepts are difficult to effectively interpret into Aboriginal languages and are very poorly understood. This means that clients often have a poor understanding of court processes and proceedings as well as a very limited awareness of their rights and what legal remedies they may have available. There are a range of other common cross-cultural issues that arise for NAAJA's clients including those arising from kinship relationships, the practice of customary law and the prevalence of gratuitous concurrence (the tendency to agree with the questioner). These issues particularly arise in remote communities, although they are by no means confined to those communities. These issues mean that many Aboriginal are not able to self-represent in legal proceedings, even with the assistance of a qualified interpreter. They also make it vital for legal assistance services to be provided face-to-face for many clients.
- Remoteness: in the case of NAAJA's clients, many live in communities or outstations that are hundreds of kilometres by dirt road to the nearest regional centre and can be inaccessible by road for significant parts of the wet season (roughly December – April). Flooding, storms and cyclones are common challenges in servicing remote communities. Remoteness makes regular face-to-face contact with legal assistance services difficult and often expensive, while also posing a formidable barrier to other services, courts and tribunals that may only be accessed in major centres.
- Lack of services: with geographical remoteness also comes a lack of basic services or unreliability in those services – such as electricity and telecommunications. The availability of technology such as audio-visual links and services such as Sykpe is limited, the quality of the connections available often poor and as is the quality of communication achieved. Most of our clients do not have landlines but will have mobile phones. However, this does not give them easy access to government and other agencies – the 'free' 1800 or 1300 numbers are not free for mobile phone users.

15. Has your country (or organization) established any mechanisms of co-operation with legal aid organizations abroad?



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NAAJA has MOU's with the mainstream legal aid commission to share resources and to have positive working relationships

16. To what extent have the UN Principles and Guidelines on Access to Justice and UN human rights conventions regarding access to justice for specific disadvantaged groups been implemented in your country and complied by your organization? Have you met any challenges during implementation?

When the *'Bringing Them Home'* report into the Stolen Generations was released in 1997, Aboriginal children represented 20 per cent of children living in out-of-home care. As at 2016, they are over 35 per cent. The rate of Aboriginal children in out-of-home care is now almost ten times that of other children in Australia, despite "numerous legal and policy frameworks designed to advance safety, and family and cultural connections for children". Aboriginal children make up the majority of children in out-of-home care in the Northern Territory.

The 2007 Little Children are Sacred report expressed that community run and owned programs that are well-resourced are more successful than one-size-fits-all programs imposed on communities by external service providers.

The 2010 *The Growing Them Strong, Together* report into the Northern Territory child protection system outlined that children who experience stable, high-quality therapeutic care are less likely to become involved in the juvenile justice system and will broadly experience better outcomes.

And in 2017 the Royal Commission into the Protection and Detention of Children found that The Northern Territory Government has systematically failed to identify and use kinship carers for Aboriginal children. That training in understanding Aboriginal kinship systems and culturally appropriate kinship care is not adequate for the purpose of kinship care placements and must be significantly improved. And that too few Aboriginal children in out of home care in the Northern Territory are placed with kinship carers.



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In 2018 the focus of NAAJA, as an Indigenous controlled organisation is to work with Government to ensure the Aboriginal and Torres Strait Islander Child Placement Principle is put into practice. To increasing the cultural appropriateness within child protection systems. To collaborate with the government and community organisations to push for a holistic approach that focuses on prevention and early intervention. And finally to shift the approach of our own organisation so that we are taking a multi-disciplinary strengths based approach to child protection.

Evidence firmly indicates that building on the strengths of families and communities to support their continuing safe care of their children offers the best prospect to secure children's long-term well-being. While this is true for all children, for Aboriginal and Torres Strait Islander children, there is an additional strong base of evidence that highlights the importance of drawing on the strengths of their communities and cultures to keep them safe and well. Evidence highlights: the enduring strength of Aboriginal child rearing approaches in promoting healthy child development; the critical importance of continuity of cultural identity to child well-being; that better outcomes can be achieved through Indigenous community-led solutions; and the importance of cultural knowledge to making decisions in children's best interests.

Currently, we are working towards establishing a tripartite forum to provide advice to the Northern Territory and Commonwealth governments to guide and support the implementation of the reform agenda arising from the Royal Commission report. The tripartite forum is a key recommendation arising from the Royal Commission to address the need for structured and sustained high level engagement between the Northern Territory Government, Commonwealth Government and community sector regarding children experiencing vulnerability, young people and families, and child protection and youth justice issues. The tripartite forum will be chaired by an Aboriginal person, have a strong Aboriginal



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voice, and will have genuine influence on decisions of the Northern Territory and Commonwealth governments. It will, amongst other things, provide strategic oversight and monitor the development and implementation of the 10 year Generational Strategy and help ensure that local engagement is coordinated and shaped by the interests and preferences of local communities. The strength of this model is that key stakeholders will be around the table working together to ensure that programs and services are coordinated and targeted to meet the needs of our communities.

In the Governments document “*Safe Thriving and Connected*”, the NTG have detailed their initiatives to re-develop the child protection and detention system. Core to the reform agenda is principles such as the Northern Territory Government funding Aboriginal organisations to find and support Aboriginal Families to safely care for Aboriginal Children in out-of- home care.

Critical to these initiatives is:

- Community ownership and input – place-based interventions driven at the local level, building on local knowledge and resources to improve the safety of children in their communities and be more effective in identifying and supporting kin and other Aboriginal carers from the same community or region.
- Adequate long-term funding and support from government
- Genuine partnerships between government and community agencies to identify community strengths and build further capacity. As Professor Oberklaid eloquently put, government should be ‘tight on outcomes and loose on inputs’ – it should have clear standards, which are appropriately monitored, but not prescribe the means by which they are to be met.
- Ensuring that community-controlled child care protections not only take on out of home care functions, but are resourced to provide the front-end preventative functions as well.



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- Empowering children, families, and where appropriate, representatives of the community, by entrenching their involvement in all significant decisions affecting the children.

The Northern Territory Government has committed to the Aboriginal Out-of-Home Care Strategy.

The Northern Territory Government is continuing to work with the legal services, APO NT and SNAICC, creating an out-of-home care system that is safe, culturally safe, holistic and trauma-informed. Ongoing actions include:

- planning the transition of out-of-home care to the non-government sector;
- increasing the number of Aboriginal children in care being supported by Aboriginal families;
- supporting the development of Aboriginal non-government organisations focused on looking after children in out-of-home care; and
- Funding Aboriginal controlled organisations to recruit and support kinship carers, introducing an out-of-home care accreditation framework.



1972



2012

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**DARWIN
KATHERINE
NHULUNBUY**

**Aboriginal Legal Aid
in the Top End**



North Australian Aboriginal Justice Agency

DARWIN : 1800 888 251
KATHERINE : 1800 897 728
NHULUNBUY : 1800 022 823

Aboriginal Legal Aid in the Top End



















WADEYE POLICE STATION

COURTHOUSE

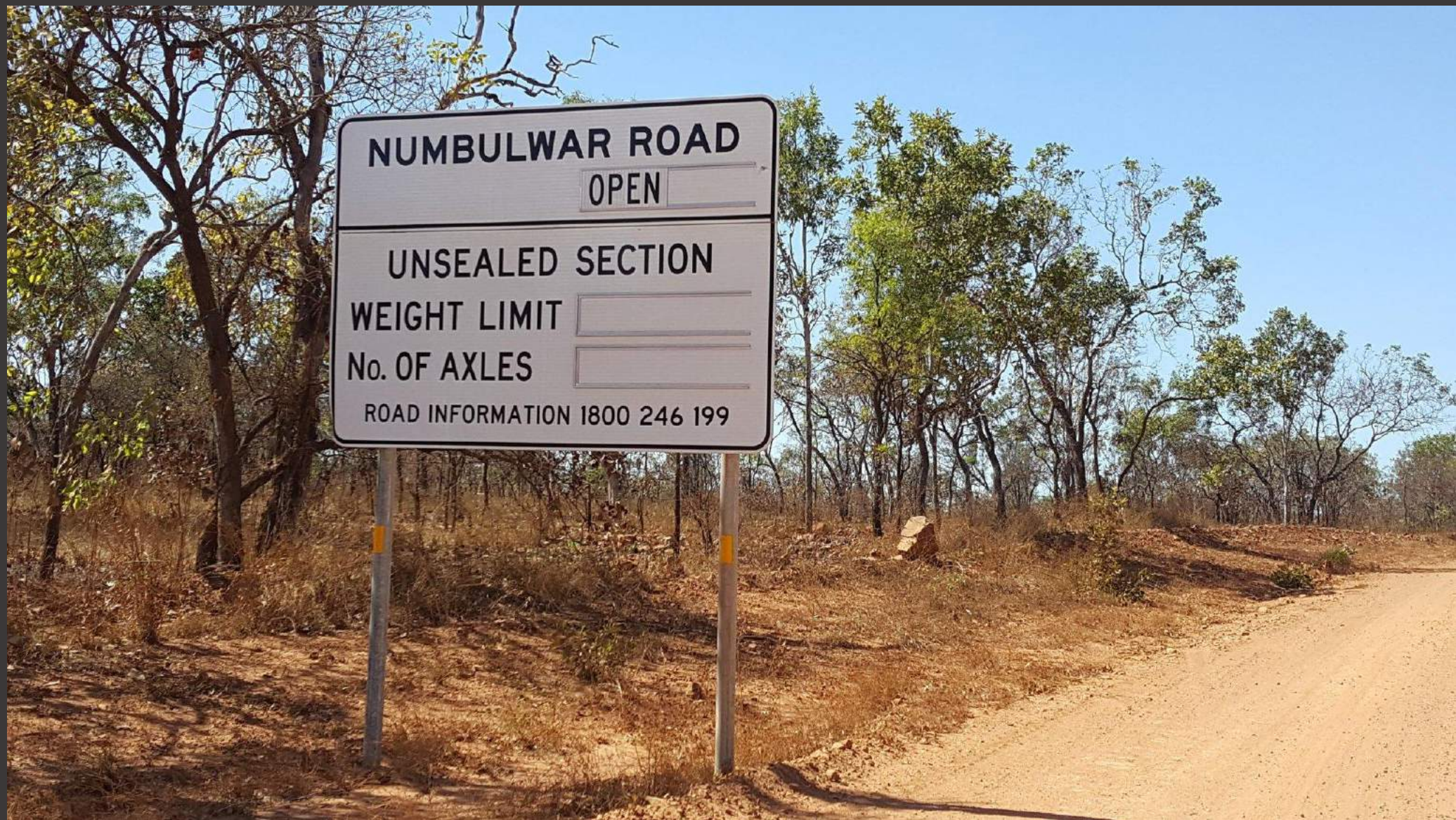






104 LAJAMANU





Bush Court



Royal Commission Court Room – 2017









CICAYDAS

Children in Care and Youth
Detention Advice Service

1800 940 948

www.cicaydas.com.au













NAAJA court office – Wadeye



NAAJA court office – Wadeye







































Court is on in Lajamanu on Monday 3 and Tuesday 4 April 2017

Amala, Paul and Hayley from NAAJA Criminal Team will be in Lajamanu from Monday 3 April

NAAJA is available for a **Kurdiji meeting** before court on **Sunday 2 April** at 4pm at the Kurdiji building.

Zhenia and Shaun from NAAJA Legal Education Team will be in Lajamanu from Sunday 2 to Wednesday 5

Are you interested in helping your community? Become a GMAAAC Committee Member in 2017!

GMAAAC

TANAMI DOWNS ELECTIONS 5TH APRIL

- Be elected to represent TANAMI DOWNS for 3 year term
- Listen to your community
- Speak up strongly for projects that are going to benefit Tanami towns
- Tell your community what projects are being funded
- Volunteer to attend 2 - 3 meetings per year
- More info call Rebecca Humphries at CLC 8051 6378

When: 5th April
Where: CLC Office
Time: 9am
Come down for Breakfast!

The first Committee Meeting will be **strongly** after the election!

Who Can be a GMAAAC Committee Member?
• An Aboriginal person 18 years of age or over
• Must be from TANAMI DOWNS

Victoria Daily
VIC DALY REGION

Like us on facebook

North Australian Aboriginal Justice Agency
Favourite Transmission

Name: _____
Age: _____
Sex: _____
Phone: _____
Email: _____

What is your favourite transmission?
I like to hear _____
because _____
I like to hear _____
because _____
I like to hear _____
because _____

Yitaki-mani (Culture Day)
Thursday 13th April
At the School
Everyone welcome

COURT IN LAJAMANU
MONDAY AND TUESDAY
COME SEE NAAJA AT
COURT ON MONDAY TO
HAVE COURT EARLY Thank You
NAAJA

MATT
Grose

Peter
Ross

with
HIA













1. $395 + 45 =$
2. $95 + 197 =$
3. $19 + 84 =$
4. $197 + 85 =$
5. $495 + 48 =$
6. $250 + 99 =$
7. $495 + 50 =$
8. $95 + 457 =$
9. $644 + 95 =$
10. $844 + 50 =$

































 Batchelor
Institute
Lajamanu Campus
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